

Economic Impact Statement
LSA Document #10-183

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

This memo is submitted in accordance with [IC 4-22-2.1](#), and formalizes our analysis of the fiscal impact of the attached amended rule.

This rule amendment is required to comport with federal requirements (42 CFR Part 483) implementing version 3.0 of the Minimum Data Set (MDS) effective October 1, 2010. Version 3.0 of the MDS no longer captures special care unit (SCU) information that is used in the case mix reimbursement system, making this rule amendment necessary to capture SCU information through the annual cost reporting processes.

While completion of resident room numbers on version 3.0 on the MDS is not mandated by federal MDS requirements, this rule amendment requires that such room numbers be completed and submitted since this information is essential to correctly determine Medicaid case mix reimbursement for special care units. The MDS transmission, therapy, and nursing restorative requirements are being removed since these requirements are included in federal regulations.

This rule amendment also increases the percentage that the administrative reimbursement component is reduced due to unsupported resident assessment to provide a stronger incentive for facilities to meet minimum MDS requirements. Additionally, the maximum frequency between MDS audits is being increased from no less often than once every 15 months under the current rule, to no less often than every 36 months under this rule amendment to recognize a reduced overall risk of unsupported assessments. Lastly, the frequency and time period that preliminary CMI reports are issued is being modified to better correspond with the MDS reporting cycle.

Impact on Small Business

The following section provides responses to the following questions outlined in [IC 4-22-2.1-5](#):

1. An estimate of the number of small businesses, classified by industry sector that will be subject to the proposed rule.

[IC 4-22-2.1-4](#) defines a small business as any person, firm, corporation, limited liability company, partnership, or association that:

- (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;
- (2) is independently owned and operated;
- (3) employs one hundred (100) or fewer full-time employees; and
- (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

The OMPP estimates that 51 nursing facilities out of a total of 469 nursing facilities that are Medicaid certified and meet the criteria of [IC 4-22-2.1-4](#) as a small business.

2. An estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.

As noted above, the new version MDS 3.0 no longer captures SCU information that is used in the case mix reimbursement system. Therefore, a new schedule was developed to capture this information and will be included with the filing of the annual financial report. The schedule consists of seven fields to check yes or no, one date field, and the room numbers of patients in the SCU. All of the information requested is readily available to the nursing facility and was information already required in order to complete the previous version of MDS.

A review of the 51 nursing facilities that OMPP estimates meet the criteria of a small business found five facilities that have a SCU. It is estimated that the record keeping or other administrative cost to complete this new schedule to be less than \$200 per facility.

3. An estimate of the total annual economic impact that compliance will have on small businesses subject to the rule.

Less than \$1,000 for the five nursing facilities that are small businesses and have a SCU.

4. A statement justifying any requirement or cost that is imposed by the rule and not expressly required by law. The statement must reference any data, studies, or analyses relied upon by the agency in determining imposition of the requirement or cost is necessary.

This rule amendment is required since the transition to version 3.0 of the MDS is a federal requirement and the information necessary to determine a SCU would not be available without this amendment.

5. Any regulatory flexibility analysis that considers any less intrusive or less costly alternative methods

of achieving the same purpose.

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

This rule amendment provides the least restrictive method of collecting the necessary information to calculate the proper reimbursement rate for nursing facilities with an SCU since it can no longer be collected on the MDS form.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

This rule amendment provides for a less stringent reporting requirement since the required information will be submitted at the same time as the provider's annual financial filing.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

See response to 5. B.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The information requested by the rule amendment is required of all nursing providers that have a SCU and are requesting additional Medicaid reimbursement for the SCU. This information is necessary to determine if the nursing facility actually has a SCU.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

See response to 5. D.

If there are any programmatic or fiscal questions, please contact Faith Laird at (317) 232-0604 or at faith.laird@fssa.in.gov. Questions regarding any other aspect of the proposed changes should be addressed to Joy Heim at (317) 232-1139 or at joy.heim@fssa.in.gov.

Please contact Joy Heim at (317) 232-1139 or e-mail her at joy.heim@fssa.in.gov regarding IEDC's comments about this rule amendment. The public hearing will be scheduled after receiving authorization from Legislative Services Agency to do so. Ms. Heim will then contact you to provide the date of the hearing for your convenience.

Posted: 08/25/2010 by Legislative Services Agency

An [html](#) version of this document.